

AMENDED IN ASSEMBLY AUGUST 14, 2006

AMENDED IN ASSEMBLY JUNE 20, 2006

AMENDED IN ASSEMBLY JUNE 8, 2006

AMENDED IN ASSEMBLY MARCH 13, 2006

AMENDED IN ASSEMBLY JUNE 14, 2005

AMENDED IN ASSEMBLY JUNE 6, 2005

AMENDED IN SENATE MAY 2, 2005

AMENDED IN SENATE APRIL 21, 2005

**SENATE BILL**

**No. 440**

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**Introduced by Senator Speier**

February 17, 2005

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An act to amend Section ~~2980~~ 2890 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 440, as amended, Speier. Telecommunications: billing.

Existing law authorizes the Public Utilities Commission to regulate telecommunications services and rates of telephone corporations, except to the extent regulation of commercial mobile radio service is preempted by federal regulation, and to require telephone corporations to provide certain customer services.

Existing law specifically requires a person, corporation, or billing agent to provide a means for expeditiously resolving subscriber disputes over charges for a product or service, the purchase of which was not authorized by the subscriber. Existing law establishes a

rebuttable presumption that an unverified charge for a product or service was not authorized by the subscriber and that the subscriber is not responsible for that charge. With regard to direct dialed telecommunications services, evidence that a call was dialed is prima facie evidence of authorization. Existing law requires the commission to require telephone corporations to provide customer service to telecommunication customers that includes, among other things, information concerning the regulatory process and how customers can participate in that process, including the process of resolving complaints.

This bill would authorize a subscriber to present a person, corporation, or billing agent that has charged the subscriber for a direct dialed telecommunications service with evidence to rebut that prima facie evidence of authorization. The bill would prohibit a billing telephone company, while a complaint investigation is pending, from requiring the subscriber to pay the disputed charge or any associated late charges or penalties, sending the disputed charge to collection, or making an adverse credit report based on nonpayment of the disputed charge. The bill would require a person, telephone corporation, or billing agent that provides a ~~bill for telecommunications services~~ *bill* to include with each bill a statement of the subscriber's rights if billed for unauthorized charges, as prescribed. *The bill would authorize the commission by rule to develop standard language to be used for the statement.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 2890 of the Public Utilities Code is
- 2 amended to read:
- 3 2890. (a) A telephone bill may only contain charges for
- 4 products or services, the purchase of which the subscriber has
- 5 authorized.
- 6 (b) When a person or corporation obtains a written order for a
- 7 product or service, the written order shall be a separate document
- 8 from any solicitation material. The sole purpose of the document
- 9 is to explain the nature and extent of the transaction. Written
- 10 orders and written solicitation materials shall be unambiguous,
- 11 legible, and in a minimum 10-point type. Written or oral

1 solicitation materials used to obtain an order for a product or  
2 service shall be in the same language as the written order.  
3 Written orders shall not be used as entry forms for sweepstakes,  
4 contests, or any other program that offers prizes or gifts.

5 (c) The commission may only permit a subscriber's local  
6 telephone service to be disconnected for nonpayment of charges  
7 relating to the subscriber's basic local exchange telephone  
8 service, long-distance telephone service within a local access and  
9 transport area (intraLATA), long-distance telephone service  
10 between local access and transport areas (interLATA), and  
11 international telephone service.

12 (d) (1) A billing telephone company shall clearly identify, and  
13 use a separate billing section for, each person, corporation, or  
14 billing agent that generates a charge on a subscriber's telephone  
15 bill. A billing telephone company shall not bill for a person,  
16 corporation, or billing agent, unless that person, corporation, or  
17 billing agent complies with paragraph (2).

18 (2) Any person, corporation, or billing agent that charges  
19 subscribers for products or services on a telephone bill shall do  
20 all of the following:

21 (A) Include, or cause to be included, in the telephone bill the  
22 amount being charged for each product or service, including any  
23 taxes or surcharges, and a clear and concise description of the  
24 service, product, or other offering for which a charge has been  
25 imposed.

26 (B) Include, or cause to be included, for each entity that  
27 charges for a product or service, information with regard to how  
28 to resolve any dispute about that charge, including the name of  
29 the party responsible for generating the charge and a toll-free  
30 telephone number or other no cost means of contacting the entity  
31 responsible for resolving disputes regarding the charge and a  
32 description of the manner in which a dispute regarding the charge  
33 may be addressed. Each telephone bill shall include the  
34 appropriate telephone number of the commission that a  
35 subscriber may use to register a complaint.

36 (C) Establish, maintain, and staff a toll-free telephone number  
37 to respond to questions or disputes about its charges and to  
38 provide the appropriate addresses to which written questions or  
39 complaints may be sent. The person, corporation, or billing agent  
40 that generates a charge may also contract with a third party,

1 including, but not limited to, the billing telephone corporation, to  
2 provide that service on behalf of the person, corporation, or  
3 billing agent.

4 (D) Provide a means for expeditiously resolving subscriber  
5 disputes over charges for a product or service, the purchase of  
6 which was not authorized by the subscriber.

7 (e) (1) In the case of a dispute, there is a rebuttable  
8 presumption that an unverified charge for a product or service  
9 was not authorized by the subscriber and that the subscriber is  
10 not responsible for that charge.

11 (2) With regard to direct dialed telecommunications services,  
12 evidence that a call was dialed is prima facie evidence of  
13 authorization.

14 (f) Notwithstanding paragraph (2) of subdivision (e), a  
15 subscriber may present a person, corporation, or billing agent that  
16 has charged the subscriber for a direct dialed telecommunications  
17 service with evidence to rebut the prima facie evidence that the  
18 direct dialed telecommunications service was authorized,  
19 including, but not limited to, evidence that a call was dialed using  
20 a lost or stolen telecommunications device.

21 (g) While a complaint investigation is pending, the billing  
22 telephone company shall not do any of the following:

23 (1) Require the subscriber to pay the disputed charge or any  
24 associated late charges or penalties.

25 (2) Send the disputed charge to collection.

26 (3) Make an adverse credit report based on nonpayment of the  
27 disputed charge.

28 (h) If recurring charges arise from the use of those  
29 subscriber-initiated services, the recurring charges are subject to  
30 this section.

31 (i) If an entity responsible for generating a charge on a  
32 telephone bill receives a complaint from a subscriber that the  
33 subscriber did not authorize the purchase of the product or  
34 service associated with that charge, the entity, not later than 30  
35 days from the date on which the complaint is received, shall  
36 verify the subscriber's authorization of that charge or undertake  
37 to resolve the billing dispute to the subscriber's satisfaction.

38 (j) (1) Notwithstanding any other provision of law, a person,  
39 corporation, or billing agent that provides a ~~bill for~~  
40 ~~telecommunications services shall provide with each bill a clear~~

telecommunications bill shall include with each bill a clear and conspicuous statement of a subscriber's rights if billed for unauthorized charges, including substantially the following statement:

**~~“California Customers: Summary of Your Rights in Case of Errors (Unauthorized Charges) on Your Bill.~~**

~~If you think that any charge on your bill is wrong, contact us at [insert toll-free telephone number or other no-cost means of contact, except that e-mail or another electronic means of contact shall not be the sole means of contact].~~

~~You do not have to pay the disputed charge or any associated late charges or penalties while an investigation into the disputed charge is pending, but you are still obligated to pay the parts of your bill that are not in question. While an investigation is pending, we cannot make a negative credit report based on nonpayment of the disputed charge or take any action to collect the disputed charge. We will advise you of the results of our investigation within 30 days of the date on which the complaint is received. You may have other legal rights in addition to the rights explained here.” unauthorized charges.~~

~~(2) The statement shall describe with specificity the subscriber's rights pursuant to subdivision (g) and disclose that the subscriber will be notified of the results of any investigation of a billing complaint within 30 days from the date on which the complaint was received.~~

~~(k) The commission may by rule develop standard language to be used for the statement required by subdivision (j) that describes with specificity only the following information:~~

~~(1) The subscriber's rights pursuant to subdivision (g).~~

~~(2) The subscriber's right to be notified of the results of any investigation of a billing complaint within 30 days from the date on which the complaint was received.~~

~~(k)~~

~~(l) As used in this section:~~

~~(1) “Billing agent” means the clearinghouse or billing aggregator.~~

~~(2) “Unauthorized charges” include charges incurred using a lost or stolen telecommunications device.~~

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